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OFFICE OF PETITIONS

In re Patent No. 7,094,181
Issue Date: August 22, 2006
Application No. 10/687,161
Filed: October 17, 2003
Attorney Docket No. **3201.2.3 CIP**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) which is being treated as a petition under 37 CFR 1.378(c), filed July 14, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.
The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) above.

This patent expired at midnight August 22, 2010, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c). Petitioner has submitted fees totaling \$1,310 (\$490 for the 3½ year maintenance fee; \$820 for the payment of the (petition) surcharge fee) with the instant petition. However, the amount required to reinstate the patent is \$2,130 which includes \$490 for payment of 3½ year maintenance fee and \$1,640 for the surcharge fee required by 37 CFR 1.20(i)(2). Therefore, petitioner must submit \$820 for the payment of the (petition) surcharge fee set forth in 37 CFR 1.20(i)(2) and \$400 for the petition for reconsideration before this patent can be reinstated.

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It is also noted that petitioner had submitted the incorrect petition form for reinstatement of the patent. The correct petition form for a Petition to accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c) PTO/SB/66) is enclosed with a copy of this decision.

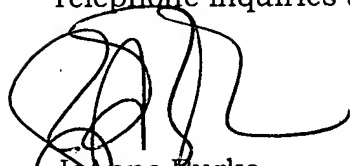
Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571)-272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Michael W. Starkweather
 P.O. Box 900547
 Sandy, UT 84090-057